

**REMARKS**

This Application has been carefully reviewed in light of the Office Action mailed March 27, 2006. Applicant respectfully requests reconsideration and favorable action in this case.

**Section 102(e) Rejections**

Claims 1-24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Application Publication No. 2001/004213, listing Mathon, et al. as inventors (hereinafter “*Mathon*”). Claims 1-24 were also rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,163,802 issued to Lin (hereinafter “*Lin*”).

At the outset, Applicant provides a reminder that in establishing a *prima facie* case of anticipation, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (Emphasis added). With this threshold requirement in mind, Applicants submit that neither *Mathon* nor *Lin* show the identical invention in as complete detail as is contained in the Amended Independent Claims.

Amended Independent Claim 10 is allowable over *Mathon* and *Lin* because both *Mathon* and *Lin* fail to disclose, expressly or inherently, “monitoring tracking information on a plurality of ports, at least one of the plurality of ports associated with a message transfer agent operable to receive a message and transfer the message towards a destination.”

With regards to *Mathon*, in a rejection of June 25, 2004, the PTO pointed to paragraphs 0010, 0026, 0041, and 0047 of *Mathon* as disclosing a monitoring function. However, *Mathon* is generally directed towards a network controller that monitors transmission results and dynamically re-configures the network to balance loading across the route points to avoid failures or other bottlenecks in the system. To this end, the paragraphs in *Mathon* cited by the PTO describe the following context of monitoring: “monitoring the physical status of the respective components,” and “monitor[ing] and minimizing message transmission latency.” *See e.g.*, Paragraphs 0026 and 0047. These paragraphs mention nothing of monitoring tracking information on a plurality of ports, let alone monitoring tracking information on a port associated with a message transfer agent operable to receive a message and transfer the message towards a destination. Therefore, *Mathon* does not disclose the identical invention in as complete detail as Independent Claim 10. Accordingly, Independent Claim 10 and its dependents should be allowable over *Mathon*. The remaining

independent claims and their dependents should be allowable over *Mathon* for analogous reasons.

With regards to *Lin*, in a rejection of March 27, 2006, the PTO pointed to Column 3, lines 13-47 of *Lin* as disclosing a monitoring function. However, this portion of *Lin* generally describes a Collector 106/206 which gathers records “from either native message log entries or a native inline mail API.” Such gathering of records “from either native message log entries or a native inline mail API” does not disclose monitoring a port associated with a message transfer agent operable to receive a message and transfer the message towards a destination. There is no indication that the native message log entries or a native inline mail API receive messages or transfer messages towards a destination. Therefore, *Lin* does not disclose the identical invention in as complete detail as Independent Claim 10. Accordingly, Independent Claim 10 and its dependents should be allowable over *Lin*. The remaining independent claims and their dependents should be allowable over *Lin* for analogous reasons.

### **Request for Evidentiary Support**

In establishing rejections, if the Examiner is relying upon “common knowledge” or “well known” principles to establish the rejection, Applicant requests that a reference be provided in support of this position pursuant to M.P.E.P. §2144.03. Furthermore, to the extent that the Examiner maintains any rejection based on an "Official Notice" or other information within the Examiner's personal knowledge, Applicants respectfully request that the Examiner cite a reference as documentary evidence in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. 1.104(d)(2).

### **No Waiver**

All of Applicant's arguments are without prejudice or disclaimer. Applicant reserves the right to discuss the distinctions between the applied art and the claims in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicant are sufficient to overcome the anticipation rejections.

Conclusion

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Ryan S. Loveless, Attorney for Applicant, at the Examiner's convenience at (214) 953-6913.

The Commissioner is hereby authorized to charge \$450.00 to cover the Extension of Time Fee to Deposit Account No. 02-0384 of Baker Botts L.L.P.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,  
BAKER BOTT S L.L.P.  
Attorneys for Applicant

*Ryan S. Loveless*  
\_\_\_\_\_  
Ryan S. Loveless  
Reg. No. 51,970

Date: August 28, 2006

CORRESPONDENCE ADDRESS:

Customer Number: **05073**